



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JUN 31 2003

Paper No. 10

In re Application of :
Yoshihisa Fujioka *et al* : DECISION ON PETITION
Application No. 09/274,197 :
Filed: March 22, 1999 :
Attorney Docket No. 2309/0F390US0 :

This is a petition on the petition filed on September 27, 2002 by which petitioners request the establishment of a new shortened statutory period for filing a reply to the Office letter dated January 24, 2002, which was a Notice of Non-Compliant Amendment. The petition is being considered under 37 CFR 1.181, and no fee is required.

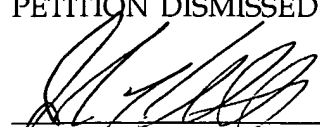
The petition is dismissed.

Petitioners allege that they did not receive the Office letter in question. The record shows that petitioners were informed of the mailing of that letter as a result of a telephone inquiry by the examiner. Apparently, the examiner advised petitioners to file a petition "under 1.81 (*sic*, 1.181) providing evidence of nonreceipt so that the Office Action can be remailed and the period for response restarted."

A review of the petition shows that petitioners have not supplied any evidence in support of the allegation of nonreceipt of the Office letter in question. Petitioners are advised to review MPEP § 711.03(c), in particular page 700-140, wherein there is a discussion of the Notice originally published at 1156 OG 53 which establishes the minimum requirements for establishing nonreceipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing will now be accepted under the circumstance in which an applicant is informed of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned.

Petitioners are invited to file a renewed petition which includes a showing as discussed in MPEP § 711.03(c). No fee is required for the renewed petition, but the renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.


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